

REMARKS

Reconsideration of the present claims, in light of the attached claim amendments and the remarks which follow, is respectfully requested.

Claims now before the Examiner are 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99, 103-117. Claims 1-12, 14-16, 21-29, 31, 32, 34, 37, 38, 67-69, 75-98, 100-102, and 117-120 have been cancelled.

The numbering in this response will follow that of the Examiner's Action.

Item 1. No response necessary.

Item 2. Claims 17, 40, 99, 105, and 115-117 have been amended consistent with Examiner's suggestions.

Item 3. No response necessary.

Item 4. Claims 13, from which claims 17-20, 30, 33, 35, 36, 39-66, 70-74, 99 and 103-117 depend, have been rejected under 35 U.S.C. § 102(e) as anticipated by or in the alternative 35 USC § 103(a) as obvious over US 5,866,663 (Brookhart).

As originally filed, Claim 13 did recite:

13. A late transition metal catalyst system essentially without residual solvent comprising a Group 9, 10, or 11 metal complex stabilized by a bidentate ligand structure immobilized on a solid support. (Claim 13, Application as filed).

In the Office Action dated as mailed October 16, 1998 (Paper 6), Claim 13 was rejected, in part under Section 103(a) over Drent. In this rejection, Examiner suggests that Drent discloses an optionally supported catalyst. Examiner then admits that Drent "lacks specific teaching of the amount of the metal compound on

the support, or the drying of the prepared catalyst." Examiner continues "[h]owever, such steps in the preparation of a catalyst are conventional in the art to one of ordinary skill in the art." (Paper 6, Paragraph 14).

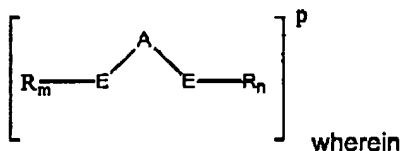
In the Amendment filed February 8, 1999, Applicants properly amended Claim 13 to recite:

13. (once amended) A late transition metal catalyst system essentially without residual solvent for olefin polymerization of olefin monomers comprising a Group 9, 10 or 11 metal complex stabilized by a bidentate ligand immobilized on a solid support, the Group 9, 10 or 11 metal complex of the formula:



wherein M is a Group 9, 10 or 11 metal;

L is a bidentate ligand defined by the formula:



A is a bridging group containing a Group 13-15 element;
each E is independently a Group 15 or 16 element covalently bonded to M;

each R is independently a C₁-C₃₀ radical or diradical group which is a hydrocarbyl, substituted hydrocarbyl, halocarbyl, substituted halocarbyl, hydrocarbyl-substituted organometalloid, or halocarbyl-substituted organometalloid;

m and n are independently 1 or 2 depending on the valency of E; and

p is the charge on the bidentate ligand such that the oxidation state of MX_r is satisfied;

each X is, independently, a hydride radical, a hydrocarbyl radical, a substituted hydrocarbyl radical, a halocarbyl radical, a substituted halocarbyl radical, hydrocarbyl-substituted organometalloid or halocarbyl-substituted organometalloid; a neutral hydrocarbyl-containing donor ligand; a univalent anionic ligand; a neutral non-hydrocarbyl atom containing donor ligand; or two Xs are joined and bound to the metal atom to form a metallacycle ring containing from about 2 to about 20 carbon atoms; or two Xs are joined to form an anionic chelating ligand; and

r is 1, 2 or 3.

In the Remarks section of that same Amendment, Applicants note that until Applicants' discovery, the catalyst systems of the type claimed have not been considered useful for making high molecular weight polyethylene (i.e., an unexpected result). Applicants thus further urged Examiner to withdraw both his

rejection of the Claims, and the general allegation that it is conventional in the art to use a solid for supporting a catalyst.

In the Final Office Action dated as mailed March 29, 1999 (Paper 9), the rejection under Section 103(a) over Drent was withdrawn, and Claim 13 was rejected under Section 102(e) as being anticipated by Brookhart. Examiner alleges Brookhart disclosed the present invention as claimed in Col 1-33, and Col. 38, top; especially example 98.

On September 28, 1999, Applicants filed a notice of Appeal along with a response wherein Claim 13 was twice amended to recite in part: "the metal complex stabilized by a bidentate ligand of the formula".

In the Remarks section of that Response, Applicants asserted that Brookhart did not disclose the invention as claimed, and that Example 98 disclosed silica impregnated with a methylene chloride solution of ..., and thus Brookhart did not disclose a catalyst system essentially without residual solvent. Furthermore, Applicants noted that the loading of the catalyst is greater than the loading of the catalyst recited by the then-Claim 1 (i.e., Brookhart disclosed a loading of 156, as compared to Applicants' recited limitation of less than 100 micromoles transition metal compound per gram of solid support.) The Appeal Brief filed January 28, 2000 reiterated these same issues.

In the non-final Office Action dated as mailed April 11, 2000 (Paper 16), the response filed on 9-28-99 was not mentioned, and thus assumed not entered. Claims 1 and 13 were therein rejected under Section 103(a) as being obvious over Brookhart. In paragraph 9 of that Office Action, Examiner admits that "Brookhart lacks teaching of the amount of metal compound on the support compared as micromoles per gram support." (emphasis added) Examiner continues "[h]owever, such a parameter is easily within the skill of the routineer in the art to vary, depending on how active he wanted the supported catalyst to be when it was used in e.g., slurry or gas phase polymerizations in e.g., the UnipoleTM process." The

examiner also noted that "no declaration or data appear to be of record showing an criticality of the amount of catalyst loading on the support." Examiner then conclude that "[I]t would have been obvious to one of ordinary skill in the art to apply that skill to the disclosure of Brookhart with a reasonable expectation of obtaining a highly-useful olefin polymerization catalyst with the expected benefit that the catalyst could be used in heterogeneous polymerization reactors."

On October 11, 2000, Applicants filed a response to the Office Action of April 11, 2000. The previous amendments made in the non-entered amendment filed September 28, 1999 were again submitted.

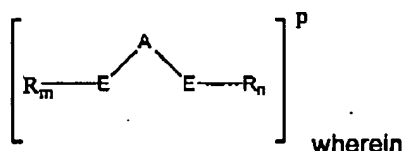
In the Office Action dated as mailed November 3, 2000 (Paper 19), Claims 1 and 13 were once again rejected under Section 103(a) over Brookhart. Examiner suggests that Applicants' principle argument against Brookhart appears to be that "its loading on the support does not read on that of the present claims." Examiner then concludes "[h]owever, since the metals of the prior art are expensive, mere cost alone would have motivated one of ordinary skill in the art to use lower catalyst loadings with perhaps higher surface areas of the supports to result in similar catalytic activities. Nor have applicants presented any comparative data which would suggest the presence of an unexpected result in the present invention versus the prior art. Furthermore, drying a supported catalyst of is residual solvent is a conventional step in the preparation of supported catalysts since the solvent may interfere with proper cohesion between the support and the catalyst compound as well as the catalytic cycle of the compound." (Paper 19, Paragraph 7, emphasis added).

In the Response filed May 3, 2001, Applicants three times amended Claim 13 to recite:

13. A late transition metal catalyst precursor, essentially without residual solvent, for olefin polymerization comprising a Group 9, 10 or 11 metal connected to a bidentate ligand immobilized on a solid support, wherein the catalyst precursor has the formula:

LMX, wherein

- (a) M is a Group 9, 10 or 11 metal;
- (b) L is a bidentate ligand defined by the formula:



- (i) A is a bridging group containing a Group 13-15 element;
- (ii) each E is independently a Group 15 or 16 element covalently bonded to M;
- (iii) each R is independently a C1-C30 radical or diradical group which is a hydrocarbyl, substituted hydrocarbyl, halocarbyl, substituted halocarbyl, hydrocarbyl-substituted organometalloid, or halocarbyl-substituted organometalloid;
- (iv) m and n are independently 1 or 2 depending on the valancy of E; and
- (v) p is the charge on the bidentate ligand such that the oxidation state of MX_r is satisfied;
- (c) each X is, independently, a hydride radical, a hydrocarbyl radical, a substituted hydrocarbyl radical, a halocarbyl radical, a substituted halocarbyl radical, hydrocarbyl-substituted organometalloid or halocarbyl-substituted organometalloid; a neutral hydrocarbyl-containing donor ligand; a univalent anionic ligand; a neutral non-hydrocarbyl atom containing donor ligand; or two Xs are joined and bound to the metal atom to form a metallacycle ring containing from about 2 to about 20 carbon atoms; or two Xs are joined to form an anionic chelating ligand; and
- (d) r is 1, 2 or 3.

In the Remarks section of that Response, Applicants request reconsideration of the rejection based on Section 103(a) in view of Brookhart. Applicants refer to the interview that took place between Examiner and Applicants' Attorney on March 12, 2001, wherein the discussion included the unexpected results of Applicants' invention, as discussed starting at page 21 of the application as filed.

In the Advisory action dated as mailed May 23, 2001 (Paper 23), Examiner noted that the Amendment filed May 3, 2001 was not entered, and that the arguments against Brookhart "goes to the olefin polymerization process rather than the claimed catalyst." Applicants then filed an RCE on August 17, 2001, and the three times amended Claim 13 was entered.

In the Office Action dated as mailed January 3, 2002 (Paper 32), Examiner notes that "[t]he claims appear to be allowable over the prior art of record. The closest prior art is Masters et al., WO 83/02907, of record, which discloses a compound with group 16 elements bonded directly to nickel; however, there are no R

groups bonded to the group 16 elements as the present claims require". Examiner suggests filing a CIP to overcome this formal rejection. (See Paper 32, Paragraph 7, emphasis added).

Accordingly, in Paper 32, Examiner concedes that Claim 13, as three times amended, appears to be patentable, and thus appears not to be rendered obvious by Brookhart.

Applicants filed a Response on April 1, 2002, wherein Claim 13 was four times amended to recite in part:

"(v) p is the charge on the bidentate ligand such that the overall charge of LMX_r is neutral"

Applicants noted Examiner's indication of allowable subject matter, and requested a Notice of Allowability so stating.

In the Office Action dated as mailed June 26, 2002 Paper (34), Examiner once again rejected Claim 13, based on the rejection outlined in Paper 32. Examiner did not mention the previous rejection under section 103(a) in view of Brookhart.

In response to an interview held between Examiner and Applicants' attorney on August 22, 2002, Applicants filed a response reiterating that Examiner had decided that the outstanding formal claim rejections were merely a question of semantics. Applicants thus suggested that since there were no outstanding rejections over the claims, all the claims were in a condition for allowance. Applicants requested Examiner to issue a Notice of Allowability.

However, in the Office Action dated as mailed December 19, 2002 (Paper 37), Examiner once again rejected Claim 13, including under Section 103(a) as being unpatentable over each of Sommazzi and Selke in view of Brookhart. Examiner once again admits that neither Sommazzi, Selke or Brookhart disclose the amount of precatalyst on the support (Paper 37, Paragraph 8, emphasis added). Further, Examiner repeats his previously conclusion that: "[h]owever, varying the amount of precatalyst on the support is within the skill of the routineer in the art based on the

amount of reactivity he would wish to achieve and the cost of the precatalyst since these late transition metals are generally fairly expensive, and the use of the non-coordinating anion precursor cocatalyst is taught by Brookhart at col. 74, l. 10-38. (Paper 37, Paragraph 8, emphasis added)

Examiner also rejected Claim 13 under Section 102(e), or in the alternative under 103(a) as obvious over Brookhart. Examiner admits that Brookhart does not explicitly disclose or teach that the precatalyst compounds are "immobilized" on the supports. Examiner also contends that "[s]ince the prior art appears to disclose and claim the present invention on the basis of inherent property characteristics which would either anticipate or render obvious the present invention, an alternative 35 USC 102/103 rejection is deemed appropriate, and the burden of proof that the prior art does or does not read on the present invention shifts to the applicants as in *In re Best* 195 USPQ 430, 433 (CCPA 1977). (Paper 37, Paragraph 9, emphasis added)

In that same Office Action, Examiner also rejected Claim 13 under Section 103(a) over Horton and Brookhart. Examiner once again admitted that "[n]either Horton or Brookhart explicitly discloses or teaches the amount of precatalyst bound to the support. However, such a variable would have been within the skill of the routineer in the art to achieve with only minor experimentation. (Paper 37, Paragraph 10, emphasis added)

Examiner also rejected Claim 13 under Section 103(a) over Drent, Brookhart II, or Johnson in view of any of Klabunde, Braca, or Masters. A total of 9 single combinations, and forty one (41) possible combinations when taken in groups. (Paper 37, Paragraph 11, emphasis added)

Applicants filed a Response on March 17, 2003, wherein Claim 13 was five times amended to further recite an activator compound, and a solid support...wherein the late transition metal loading is less than 100 micromoles metal per gram of solid support. Applicants noted that Sommazzi and Selke in view of Brookhart provide no motivation to combine the references so as to produce Applicants' Invention. Applicants requested evidence of the Examiner's ability to

predict the outcome of such a combination as was previously suggested by Examiner.

Applicants also traversed Examiner's conclusion that Brookhart provides some inherent property that would either anticipate or render obvious the present claims. Applicants note that the law is clear on this matter, that any property stated to be inherent must necessarily flow from the disclosure of the prior art. Applicants thus assert that no clear or compelling case of inherency has been made and supported by evidence. Furthermore, Applicants note that Examiner's conclusion with regard to Example 98 is wrong, in that the disclosed catalyst in Example 98 of Brookhart resulted in a gummy, rubbery polyethylene. This result in fact teaches away from the recited catalyst.

In the Office Action dated as mailed April 16, 2003 (Paper 39), Examiner maintains his rejections, alleging in paragraph 5 that "Applicants' main argument against Brookhart appears to be that this reference does not clearly teach or disclose that the metal compound is "immobilized" on the support material." Examiner states that "[h]owever, the transition metal precatalyst of Brookhart are in fact supported on the supports it discloses, and no evidence has been adduced that would give a different meaning to "immobilized" than what is disclosed in Brookhart, hence the prior art appears to inherently disclose what is presently claimed."(emphasis added). Examiner also notes that "[t]he present claims are not necessarily limited to a catalyst for use in gas phase catalysis; supported catalysts can also be used in slurry phase polymerizations."

In the instant Office Action (Paper 46), Examiner has again rejected Claim 13 for the reasons of record given in paragraph 7 of the Office Action dated as mailed August 5, 2003 (Paper 44). Paper 44, paragraph 7 refers to the Office Action dated as mailed April 16, 2003 (Paper 39), discussed above.

Repeatedly, over the course of the instant prosecution, Examiner has rejected Claim 13 as being anticipated or obvious over Brookhart, even though Examiner has

repeatedly admitted that Brookhart does not disclose the amount of metal compound on the support. In support of these rejections, Examiner has announced that varying the amount of metal on the support is within the skill of the art:

- i) depending on how active he wanted the supported catalyst to be;
- ii) by cost, since the metals of the prior art are expensive;
- iii) depending on the surface area of the support; and
- iv) based on the amount of reactivity to be achieved and the cost of the metals.

In regard to the amount of metal present on the support, firstly, it has long been established that catalysis is generally considered unpredictable merely from the chemical nature of the catalyst. *Corona Co. V. Dovan* (USSC 1928) 276 US 358, 369. Catalytic effects are not ordinarily predictable with certainty. *In re Doumani et al.* (COPA 1960) 281 F.2d 215, 126 USPQ 408. The effect of a modification of one prior art catalytic process in a manner employed in another prior art process which employs a different catalyst was held unpredictable. *Exparte Bergeretal.* (POBA 1952) 108 USPQ 236.

Secondly, it has also been established that the specification need not necessarily disclose proportions or ranges in a composition claim as critical in order for them to be considered as such, *Jennings et al. v. Brenner, Comr. Pats., supra*; *Scandiamant Aktiebolag v. Comr. Pats.* (CADC 1974) 509 F.2d 463, 184 USPQ 201; *In re Saunders et al.* (CCPA 1971) 444 F.2d 599, 170 USPQ 213.

Also, Examiner's suggestion that it would be obvious to reduce the amount of metal on the support for the various reasons stated in the absence of any showing of criticality and unexpected results, amounts to a rejection based on the limitation being "obvious to try".

Although there may be an element of "obvious to try" in any research endeavor since such research is not undertaken with complete blindness, but with some semblance of a chance of success, "obvious to try" is not a valid test of

patentability. *In re Dow Chemical Co.* (CAFC 1988) 837 F.2d 469, 5 PQ2d 1529, cited with approval in *In re Sligo Research* (CAFC 1995 Unpub. Dec.) [36 PQ2d 13801; *In re Mercier* (CCPA 1975) 515 F.2d 1161, 185 USPQ 774; *Hybritech, Inc. v. Monoclonal Antibodies, Inc.* (CAFC 1986) 802 F.2d 1367, 231 USPQ 81; *EX parte Old* (BPAI 1985) 229 USPQ 196; *In re Geiger* (CAFC 1987) 815 F.2d 686, 2 PQ2d 1276. Same, "motivated to use." *In re Jones* (CAFC 1992) 958 F.2d 347, 21 PQ2d 1941. Patentability determinations based thereon as a test are contrary to statute. *In re Antonie* (CCPA 1977) 559 F.2d 618, 195 USPQ 6; *In re Goodwin et al.* (CCPA 1978) 576 F.2d 375, 198 USPQ 1; *In re Tomlinson et al.* (CCPA 1966) 363 F.2d 928, 150 USPQ 623.

Obviousness of a process must be predicated on something more than it would be obvious "to try" the particular class of solvent recited in the claims or the possibility it will be considered in the future, having been neglected in the past. *Ex parte Argabright et al.* (POBA 1967) 161 USPQ 703. Accordingly, a rejection based on the opinion of the examiner that it would be "obvious to try" the chemical used in the claimed process which imparted novelty to the process does not meet the requirement of 35 USC §103 that the issue of obviousness be based on the claimed subject matter as a whole. *In re Dien* (CCPA 1967) 371 F.2d 886, 152 USPQ 550; *In re Wiggins* (CCPA 1968) 397 F.2d 356, 158 USPQ 199; *In re Yates* (CCPA 1981) 663 F.2d 1054, 211 USPQ 1149. As such, there must be a suggestion or teaching that the claimed novel form of the prior art compound could or should be prepared. *In re Cofer* (CCPA 1966) 354 F.2d 664, 148 USPQ 268, cited with approval in the unpublished decision of the CAFC in *Bristol-Myers Co. v. U.S. ITC* (CAFC 1989) [15 PQ2d 12581, and a "reasonable expectation of success." *Fritsch v. Lin* (BPAI 1991) 21 PQ2d 1739. Arguing that mere routine experimentation was involved overlooks the second sentence of 35 USC §103. *In re Saether* (CCPA 1974) 492 F.2d 849, 181 USPQ 36. Thus, the issue is whether the experimentation is within the teachings of the prior art. *In re Waymouth et al.* (CCPA 1974) 499 F.2d 1273, 182 USPQ 290. The fact that the prior art does not lead one skilled in the art to expect the process used to produce the claimed product would fail does not establish obviousness. *In re Dow Chemical Co.* (CAFC 1988) 837 F.2d 469, 5 PQ2d 1529. Accordingly,

Applicants' recited limitation of the amount of metal loading on the support is not obvious.

With regard to Example 98, Brookhart discloses a gummy rubbery polyethylene having a molecular weight distribution of 17.08. However, Example 97 of Brookhart, wherein the same conditions exist except for the inclusion of the 10 mesh silica granules, resulted in a spongy, non-tacky rubbery polyethylene which had good elastic recovery and which was very strong (col. 110, lines 11-13), the resultant polymer of Example 97 had a molecular weight distribution of 2.33. Applicants maintain that this disparity in the examples of producing good material (Example 97) to producing gummy rubber material (Example 98), resulting from merely adding the silica material to the same system, supports the conclusion that Example 98 teaches away from the inclusion of a support material.

A reference which leads one of ordinary skill in the art away from the claimed invention cannot render it unpatentably obvious. *Dow Chem. Co. v. American Cyanamid Co.* (CAFC 1987) 816 F.2d 617, 2 PQ2d 1350; *In re Grasselli et al.* (CAFC 1983) 713 F.2d 731, 218 USPQ 269; *In re Dow Chemical Co.* (CAFC 1988) 837 F.2d 469, 5 PQ2d 1529, and is a significant factor to be considered. *In re Gurley* (CAFC 1994) 27 F.3d 551, 31 PQ2d 1130. Same, prior art which gives only general guidance and is not specific as to the particular form of the claimed invention and how to achieve it. *Ex parte Obukowicz* (BPAI 1992) 27 PQ2d 1063.

In a situation similar to the instant prosecution, a pharmaceutical preparation in dosage form adapted for an administration to obtain a particular pharmacological response containing a prior art compound in a recited dosage effective to achieve that response was held unobvious in view of the prior art's negative teaching that the compound was "pharmacologically inert" and absent a teaching of the recited dosage range. *In re Wiggins* (CCPA 1968) 397 F.2d 356, 158 USPQ 199. Accordingly, Example 98 in Brookhart does not render Applicants' presently claimed invention obvious.

Examiner has also maintained that Applicants' recited limitation of the metal compound being "immobilized" on the support is anticipated or rendered obvious by Brookhart. Examiner supports this conclusion either expressly, wherein Examiner goes so far as to state that the precatalyst disclosed by Brookhart, "when reacted with the support materials they disclose, would have become bonded to the support materials and thus immobilized" (Paper 37, paragraph 9, emphasis added); or ephemerally, wherein Examiner suggests that "the prior art appears to inherently disclose what is presently claimed." (Paper 39, Paragraph 5).

Examiner has thus decided that Brookhart provides some inherent property which anticipates or renders obvious Applicants' presently claimed invention. However, Examiner does not share with Applicants what that property is.

Examiner is respectfully reminded that support of a rejection based on inherency requires the prior art to disclose that which necessarily flows from what is described. *Ex parte Bylund* (POBA 1981) 217 USPQ 492. The law is clear, "there must be no difference between the claimed invention and the disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Foundation v. Genentech, Inc.* (CAFC 1991) 927 F.2d 565, 18 PQ2d 1001.

In relying upon the theory of inherency, Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the prior art. *Ex parte Levy* (BPAI 1990) 17 PQ2d 1461. Furthermore, in order for prior art to anticipate a claimed compound on the ground it is inherently produced in a prior art process, the inherency must be certain. *Glaxo, Inc. v. Novopharm Ltd.*, (EDNC 1993) 830 F.Supp. 871, 29 PQ2d 1126; *Ex parte Cyba* (POBA 1966) 155 USPQ 756; *Ex parte McQueen* (POBA 1958) 123 USPQ 37. The fact that a prior art article may inherently have the characteristics of the claimed product is not sufficient. *Ex parte Skinner* (BPAI 1986) 2 PQ2d 1788. Inherency must be a necessary result and not merely a possible result. *In re Oelrich* (CCPA 1981) 666 F.2d 578, 212 USPQ 323; *Ex parte Keith et al.* (POBA 1968) 154 USPQ 320. Also, that one skilled in the art might interpret a prior

art reference as teaching a feature of a claimed structure required for anticipation is not sufficient. *Finnigan Corp. v. ITC*, (CAFC 1999) 180 F.3d 1354,51 PQ2d 1001.

Accordingly, Applicants maintain that Examiner has not provided either a basis in fact, or technical reasoning which reasonably supports the limitation which recites the loading of metal present on the support, to be conventional within the art. Nor does Example 98 of Brookhart render the claims obvious, but in fact, Example 98 teaches away from the present invention. Nor has Examiner's alleged inherent characteristic been supported by fact, or via technical reasoning. Applicants thus request Examiner to provide such proof in support of his rejections, or Applicants respectfully request removal of the rejection.

Item 5. Claims 13, 17-20, 30, 33, 35, 36, 39-66, 70-74, 99, and 103-117 have been rejected under 35 U.S.C. § 103(a) as obvious over Brookhart in view of Johnson or Drent.

As discussed above, Brookhart and Drent both fail to disclose the amount of metal on the support, as is recited by Applicants. Drent also fails to disclose supported catalyst systems. Absolutely nothing within the four corners of Drent discloses or suggests Applicants' claimed invention. Further the combination of Drent with Brookhart does not produce a viable coordination polymerization catalyst system. Adding silica to Drent's catalyst system will not change the mineral acids into olefin polymerization catalysts. Thus no one of ordinary skill in the art would look to Drent for guidance on coordination polymerization catalyst systems. It is only with the advantage of hindsight reconstruction using Applicants' claims as a map, that one of ordinary skill in the art would not think to combine Drent with Brookhart. Applicants respectfully submit that the claimed invention is not obvious over Drent in view of Brookhart under 35 USC § 103(a).

Johnson discloses di-imine catalysts used in solution polymerization to produce ethylene polymers and, as the Examiner acknowledges, does not disclose supports. Combining these two references does not produce Applicants' claimed

invention. Likewise the combination of Johnson and Brookhart does not present a reasonable expectation of successfully obtaining Applicants' particular combination. Applicants respectfully submits that the claimed invention is not obvious over Johnson in view of Brookhart under 35 USC § 103(a).

In summary, Applicants have shown that none of the references alone or in combination suggest that the catalyst, support and activator be combined as they were by Applicants. Applicants request Examiner to provide proof in support of his rejections, or Applicants respectfully request removal of the rejection. Applicants thus respectfully submit that the claimed invention is neither anticipated nor obvious over the references cited and respectfully request the rejections be withdrawn.

Applicants believe the claims are in condition for allowance and respectfully requests notice of such.

Respectfully submitted,

March 16, 2004
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